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Chas. F. McDevitt  
Dean J. (Joe) Miller

May 12, 2006

Ms. Jean Jewell, Secretary  
Idaho Public Utilities Commission  
472 W. Washington  
Boise, ID 83720

Re: UWI-W-06-03

Dear Ms. Jewell:

Enclosed for filing in the above matter please find the original and seven copies of Reply Comments.

An additional copy of the document and this letter is included for return to me with your file stamp thereon.

Thank you for you assistance.

Very truly yours,

McDEVITT & MILLER LLP



Dean J. Miller

DJM/hh

Enclosures

ORIGINAL

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UTILITIES COMMISSION

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

IN THE MATTER OF THE APPLICATION OF )     **CASE NO. UWI-W-06-03**  
UNITED WATER IDAHO INC., FOR AN )  
ACCOUNTING ORDER REGARDING )     **REPLY COMMENTS**  
CONSERVATION PLANNING COSTS and )  
REQUEST FOR MODIFIED PROCEDURE )

COMES NOW United Water Idaho Inc., (“United Water,” the “Company”) and makes the following Reply to the Comments of the Commission Staff, (“Staff Comments”) dated May 3, 2006.

United Water appreciates and supports Staff’s recommendations that costs of the conservation plan up to \$80,000 be deferred for future recovery. United Water, however, desires to offer additional or clarifying comments on two other issues raised in the Staff Comments—the request to defer up to an additional ten thousand dollars (\$10,000) and the suggestion that reimbursement be sought from other sources.

**Additional \$10,000.**

The Staff Comments object to inclusion of an additional \$10,000 in planning costs as requested in the Application. Staff’s objection appears to be premised on the assumption that the \$10,000 is intended to cover time devoted by company personnel in preparation of the plan or its subsequent revisions. (See Staff Comments, Pgs 2-3).

In fact, United Water is not proposing to defer costs associated with efforts of company personnel. Rather, it anticipates there will be out-of-pocket expenses additional to the \$80,000 consulting fee of Maddaus Water Management (MWM). For example, MWM has already conferred with other outside consultants, including Mr. Frank Gradilone, who is an expert on the consumption and usage trends of the Company's customers, and Dr. John Church, who is an expert in the area of expected growth trends and patterns in the Company's service area. It is expected that Mr. Gradilone and Dr. Church will, appropriately, charge the Company for their time and effort. United Water has and will incur out of pocket expense associated with outside legal counsel related to this deferral request and the ultimate filing of the completed plan to the Commission. United Water understands that the reasonableness of these costs will be reviewed at a later time. At this point, however, the Company should be permitted to include these additional out-of pocket expenses in the deferral.

### **Reimbursement From Others**

The Staff Comments further recommend that the Company seek reimbursement from others for its conservation planning costs and that any reimbursement received would be deducted from the permitted deferred balance. (Staff Comments, Pg. 2). United Water questions the economic logic of this recommendation. It is United Water's customers who will benefit from the plan and it is appropriate that they bear the cost, rather than off-load the costs on others, who neither caused the costs to be incurred nor benefit there from.

Further, this recommendation creates a potential point of future contention and litigation. Attempting to litigate in a general rate case the question of whether United Water's efforts to obtain reimbursement were adequate or reasonable would inject an issue not susceptible to

precise proof, the resolution of which would require subjective judgments about how much effort was reasonable.

Additionally, the recommendation requires the Company to engage in what likely would be an exercise in futility. The Staff Comments merely suggest that the EPA's Water Efficiency Market Enhancement Program "may provide grants for water conservation". (Staff Comments, Pg. 2). The Staff Comments speculate that some other entity (EPA or otherwise) might provide grants to water utilities for the development of water conservation plans, but the Comments do not, as a factual matter, confirm the availability of such reimbursement sources. Based on the Company's knowledge and experience it appears quite unlikely that preparation of a conservation plan would be reimbursed by EPA or other funding agencies. For example, the EPA Market Enhancement Program, appears aimed at promoting water efficient appliances, not supporting utility planning efforts. (See [http://www.epa.gov/owm/water-efficiency/pdf/market\\_conditions\\_7-5-05.pdf](http://www.epa.gov/owm/water-efficiency/pdf/market_conditions_7-5-05.pdf)). To confirm this understanding, on May 10 and May 11, 2006 United Water's Coordinator of Education and Outreach conferred with her counterparts at EPA and the Idaho Department of Environmental Quality, and learned that neither agency was aware of programs that would reimburse utilities for conservation planning efforts.

## CONCLUSION

Based on the reasons and authorities cited herein, United Water respectfully recommends:

1. That the Staff and Company recommendation for approval of conservation planning costs up to \$80,000 be accepted;

2. That the Staff objection to additional costs up to \$10,000 be rejected;
3. That the Staff recommendation for pursuit of reimbursement be rejected.

DATED this 17 day of May, 2006.

MCDEVITT & MILLER LLP

A handwritten signature in black ink, appearing to read "Dean J. Miller", is written over a horizontal line.

Dean J. Miller

*Attorneys for United Water Idaho Inc.*